
IRREGULAR NESTINGS IN CURITIBA/PR: ENVIRONMENTAL PROTECTION AND THE HINDRANCES FOR THE REGULARIZATION OF HOUSING

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ABSTRACT

The problems involving irregular settlements are associated with a multiplicity of rights recognized both internationally and nationally, and their integration reflects the complex society that is experienced. When entering the legal regime of urban planning of Curitiba/PR seeks to study the relationship that exists in the norm between decent housing and protection of the environment. Crossing this theoretical study, it is introduced in the current problems related to the irregular settlements and especially those that are in Environmental and Permanent Preservation Areas within the city of Curitiba/PR demystifying several common senses. Finally, we study surveillance, dialogue and integration between public housing and environmental policies as possible ways to overcome the problems. The methodology used is the logical deductive by means of the in-depth study

of the legislations and the comparative one by means of the presentation of diverse data, testimonials and the focus in the diverse sources for the construction of the academic knowledge.

KEYWORDS: Irregular settlements; Protection of the environment; planning; Curitiba/PR.

*ASSENTAMENTOS IRREGULARES EM CURITIBA/PR: A PROTEÇÃO
AO MEIO AMBIENTE E OS ENTRAVES PARA A
REGULARIZAÇÃO DE MORADIAS*

RESUMO

Os problemas que envolvem assentamentos irregulares estão associados a uma multiplicidade de direitos reconhecidos tanto no âmbito internacional como nacional, e sua integração reflete a sociedade complexa que se vivencia. Ao adentrar no regime jurídico de planejamento urbano de Curitiba/PR, busca-se estudar a relação que existe na normativa entre a moradia digna e a proteção ao meio ambiente. Transpassando este estudo teórico, adentra-se nos problemas atuais atrelados aos assentamentos irregulares e especialmente os que estão em áreas de preservação ambiental e permanente dentro da cidade de Curitiba/PR, desmistificando diversos sentidos comuns. Por fim, estudam-se a fiscalização, o diálogo e a integração entre as políticas públicas habitacionais e ambientais como possíveis caminhos para a superação dos problemas. A metodologia utilizada é a lógico-dedutiva, por meio do estudo aprofundado das legislações, e a comparativa, através da apresentação de diversos dados, depoimentos e enfoque nas diversas fontes para a construção do conhecimento acadêmico.

PALAVRAS-CHAVE: Assentamentos Irregulares; Proteção ao Meio Ambiente; Planejamento; Curitiba/PR.

INTRODUCTION

The irregular settlements are phenomena that occur in several cities all over the globe and, contrary to common sense, Curitiba also has them since its formation. In understanding irregular settlements, we also understand the formation of real cities and all the complexity of rights that surround the residents and the situation in which they live. Parallel to this is the great extent that these situations have, and the object of this study is to analyze the point of convergence between the irregular settlements and the environment. Legislation has in a way reached this borderline, but it is through the consonance of normative and the study of real experiences that the reality of irregular occupations in areas of environmental and permanent preservation will be studied.

Finally, the inspirations thought in order to reduce and remedy these adversities can not be built only by sparse and unapplied laws, but through constructive dialogue between government, civil society, movements and associations. As will be evidenced in this study, it is through the consonance between housing and environmental policies that the construction of these solutions will rise.

Thus, the present work is developed primarily through the analysis of the surrounding legal regime at both the constitutional, federal and municipal level; later it enters the present programs of the municipality of Curitiba/PR that effectively provoke influence in the housing and environmental question. After the theoretical comparison, it enters into the main issues listed by society, through the statistics and graphs surveyed of the problems that these two parameters actually produce. Finally, inspiration will be sought for future solutions through a strictly legal analysis of the situation, proposing the monitoring, dialogue and construction of housing and environmental policies in an integrated way for the formation of a dignified and environmentally responsible society.

1. NATIONAL LEGAL REGIME RELATED TO THE DWELLING AND ENVIRONMENTAL QUESTION

When thinking about all the problems involving irregular settlements, it is necessary to keep in mind that they cover a multiplicity of rights such as the right to housing, the right to the city and urban planning, the right to a balanced environment; and also indirect rights such as the

very dignity of the human person. Such rights are intertwined, and should be treated in this way especially when seeking a solution and the legal basis for regulating the expansion of the city in a dignified manner.

At first, the right to housing is regulated in international and national law. Beginning with the Universal Declaration of Human Rights of the United Nations (ONU) of 1948, which places housing as one of the necessary requirements for the person to have an adequate standard of living¹, subsequently followed by several other international treaties². In Brazilian domestic legislation, this right is present in the Constitution in art. 6 and also, the guarantee of its immediate applicability according to art. 5, paragraph 1 of this Charter³. In other areas, this right is sprayed on various laws and institutions such as the City Statute (Law 10.257/01); the Ministry of Cities; the National Urban Development Policy; the National System of Social Interest Housing (created by Law 11.124/05 and which resulted in the creation of the National Social Interest Housing Fund and the Management Board of this fund) and the Minha Casa Minha Vida program, present in Law 11.977/09. However, despite the great national and international legal basis, the definition of the composition of the right to housing still provokes great discussions in doctrine⁴.

At the same time, urbanism was also highlighted in the Constitution of 1988, which included a specific chapter to regulate it within the title of the economic and financial order, this inclusion came about through a popular proposal, which reveals the great popular outcry in which these rights are on⁵. The very development of contemporary urban space has based both

1 Article XXV: 1. Everyone has the right to a standard of living capable of providing himself and his family with health and well-being, including food, clothing and housing [...] UN. **Universal Declaration of Human Rights, 1948**. Available at: <http://portal.mj.gov.br/sedh/ct/legis_intern/ddh_bib_inter_universal.htm>. Accessed on November 25, 2017.

2 For example: International Covenant on Civil and Political Rights (New York, 1966); the International Covenant on Economic, Social and Cultural Rights (New York, 1966); the International Convention on the Elimination of All Forms of Racial Discrimination (New York, 1965); the Convention on the Elimination of All Forms of Discrimination against Women (New York, 1979); the International Convention on the Rights of the Child (New York, 1989); and the Convention Relating to the Status of Refugees (Geneva, 1951). About the subject see: ALVES, Carolina Caraiba Nazareth. **Direito à moradia: análise da situação no município de Curitiba à luz de indicadores sociais**. Dissertação (Mestrado em Direito das Relações Sociais) – Programa de Pós-Graduação em Direito da Universidade Federal do Paraná, Curitiba, 2010, p.25.

3 On the complete legal regulation of the fundamental right to housing see: GOMES, Francisco Donizete. **Direito fundamental social à moradia: legislação internacional, estrutura constitucional e plano infraconstitucional**. Porto Alegre: UFRGS. Faculdade de Direito 2005.

4 SARLET, Ingo Wolfgang. O Direito Fundamental à Moradia na Constituição: Algumas Anotações a Respeito de seu Contexto, Conteúdo e Possível Eficácia. **Revista Brasileira de Direito Público-RBDP**, Belo Horizonte, ano 1, n.02, p. 65-119, jul./set. 2003.

5 “A Popular Amendment of Urban Reform consolidated the demands, proposals and urban instru-

internationally and internally the right to the city. However, this right does not have a single conceptualization, but is in constant transformation⁶. David Harvey states that “claiming the right to the city” would be to claim a power over the processes of urbanization, that is, “about the way our cities are made and redone”⁷. The right to the city would then have the right to transform the city “according to the needs of all and not some specific groups”⁸.

The Federal Constitution of 1988 overcame the civil conception of property, which was shown with the individualist approach, to a conception focused on the core of the property function⁹. Thus, according to Orlando Alves dos Santos Junior and Cristiano Muller, the right to the city is “interdependent to all internationally recognized human rights” and thus are designed in order to include several rights as civil, political, economic, social, cultural and environmental issues, among others¹⁰.

Subsequently, the approval of the City Statute, Law n. 10.257 of 2001, brought as main characteristic the municipal competence on the matter of planning. Thus, it aims to ensure proper planning of urban policies, with the objective of ensuring that efficient management of the city is observed, as well as instruments for achieving the sustainable development of the urban environment¹¹. Other initiatives contributed to the strengthening of this right as the creation of the Ministry of Cities in 2003; the national, state and municipal conferences of cities; National Council of Cities; Federal urban programs, such as the Growth Acceleration Program (PAC) and, as

ments that it was intended to contemplate in the New Charter in order to intervene in the social chaos in which Brazilian cities had become.” ALFONSIN, Betânia de Moraes. *Da Invisibilidade à Regularização Fundiária: a trajetória legal da moradia de baixa renda em Porto Alegre*. In: FERNANDES, Edésio; ALFONSIN, Betânia de Moraes (Coord. E co-autores). **A lei e a ilegalidade na produção do espaço urbano**. Belo Horizonte: Del Rey, 2003, p.168.

6 SANCHES, Jussara Romero Sanches; ARAUJO JUNIOR, Miguel Etinger de. Multidimensionalidade do direito à cidade no estatuto da cidade. **Revista de Direito Urbanístico, Cidade e Alteridade**. e-ISSN: 2525-989X. Brasília, v. 3, n. 1, Jan/Jun. 2017, p.1.

7 HARVEY, David. A liberdade da cidade. In: MARICATO, Ermínia [et al.]. **Cidades rebeldes: passe livre e as manifestações que tomaram as ruas do Brasil**. São Paulo: Boitempo: Carta Maior, 2013, p.30

8 SANCHES, Jussara Romero Sanches; ARAUJO JUNIOR, Miguel Etinger de. Multidimensionalidade... Op. Cit. p.4.

9 FERNANDES, Edésio. **Do código civil ao estatuto da cidade: algumas notas sobre a trajetória do direito urbanístico no Brasil**. In: FERNANDES, Edésio; ALFONSIN, Betânia. *Evolução do direito urbanístico brasileiro*. Belo Horizonte: PUC Minas Virtual, 2006, p.38.

10 SANTOS JUNIOR, Orlando Alves dos; MÜLLER, Cristiano (orgs.). **Direito Humano à Cidade**. Coleção Cartilhas de Direitos Humanos, vol. VI, 1ª ed., Curitiba: Plataforma DhescaBrasil, 2008, p.31.

11 FERNANDES, Edésio. **Do código civil ao estatuto da cidade... Op Cit**. p.38.

well as the right to housing, the Minha Casa Minha Vida Program¹².

The Master Plan, with reference in the Constitution in art. 182 and provided for in law 10.257/2001, enters the municipal competence and becomes one of the main instruments of urban development and expansion policy, and seeks to guarantee the planning of the Public Power, making possible the orderly management of the cities, combining the performance of Public Power and participation of civil society, in the direction of state actions, aiming at the well-being of individuals. The Master Plan will guide the work of the planning of each city, and thus suffer seasonal adjustments¹³.

As can be seen from the aforementioned legal provisions, thinking about city planning and development can not be uncoupled from the whole environmental issue that surrounds urban dwellings and experiences. In addition, it is a dialogue of the articles present in the constitution and the fulfillment of its objectives in an interconnected way. This fact can be observed in art.225 of the Federal Constitution, which ensures that everyone has a right to a balanced environment, and it is the duty of the Government and the community to defend and preserve it, with the objective of guaranteeing quality of life for present and future generations. The interconnection with other elements of the constitution is present in the multidimensional analysis of the relationship between the human being and the environment¹⁴ and also in the fact that for the accomplishment of these objectives it is necessary that the Public Power plans its actions.

Thus, the urban environment needs global actions and specific norms that aim at the formation of a dignified life for all individuals, in accordance with the provisions of arts.182 and 183 of the Constitution, which provide for the urban development policy, and again to the status of the city and the master plan.

2.IRREGULAR SETTLEMENTS IN CURITIBA/PR AND THE DEGRADATION OF THE ENVIRONMENT: THEORY.

It is now necessary to draw up the laws and projects **currently** in force in Curitiba/PR, at the municipal level, since the analysis of the Constitution and federal legislation has already been carried out, with

12 FERNANDES, Edésio. Estatuto da Cidade, mais de 10 anos depois: razão de descrença, ou razão de otimismo. *Revista UFMG*. Belo Horizonte, vol. 20, n. 1, jan./jul., 2013, p. 212-233.

13 SILVA, Poliana Henriques da. O impacto do plano diretor do município de volta redonda na busca de uma sociedade cidadã. *Revista de Direito Urbanístico, Cidade e Alteridade*, e-ISSN: 2525-989X, Curitiba, v. 2, n. 2, Jul/Dez. 2016, p.168.

14 KALIL, Ana Paula Maciel Costa; FERREIRA, Helene Sivini. A dimensão socioambiental do estado de direito. *Veredas do Direito*, Belo Horizonte, v.14, n.28, p.329-359. Janeiro/Abril de 2017. P.333

regard to housing policies and related environmental policies, subdivided this analysis in three moments: i) Master Plan; ii) Sparse Municipal Legislation; iii) Programs.

i) The current Master Plan of Curitiba brings some provisions on the theme that guide the municipal action. In art.17 on the title of urban structuring, as one of the directives of this policy is the regularization of “social settlements already consolidated, incorporating them into the urban structure, respecting the public interest¹⁵ “, and “encourage and promote actions for the regularization of irregular civil buildings”¹⁶. There is also session III that concerns simplified land regularization, however it is restricted to commercial properties¹⁷. Parallel to these provisions is the determination of art. 62 of said plan, in its section XX: “To establish norms, standards, restrictions and incentives for the use and occupation of public and private real estate, considering aspects of the natural, cultural and built environment aiming at environmental sustainability.”In Chapter V, there is the guarantee that the integration of the housing policy with the other public policies must be ensured, “In particular those of urban and regional development “¹⁸. In this way, the constitutional intention of planning with environmental protection and integration is reflected.

There is also the specific session on housing of social interest, which guarantees in art. 79: 1 The objectives of this public policy in partnership with the private sector; 2. Prioritization of the population of up to 3 minimum wages. 3.As general guidelines, the promotion of regularization, housing production, expansion of the Municipal Housing Fund of Social Interest, diversification of access to housing, and the promotion of studies and projects of social rental to expand access to housing to others population niches such as students, the elderly and young people, always prioritizing the low income population¹⁹.

In the specific session on land regularization in art. 89 there is a prioritization of the “permanence of the population in the occupied area, ensuring the adequate level of urban, social and environmental conditions, such as health, stability, security, infrastructure and access to public

15 BRASIL, **Plano Diretor de Curitiba. Lei Municipal n.º. 14.771/2015. Art. 17, XII.** Available at:<
http://www.ippuc.org.br/visualizar.php?doc=http://admsite2013.ippuc.org.br/arquivos/documentos/D310/D310_001_BR.pdf> Accessed on December 20, 2017.

16 BRASIL, **Plano Diretor de Curitiba. Lei Municipal n.º. 14.771/2015.... Op Cit. Art. 17, XV.**

17 BRASIL, **Plano Diretor de Curitiba. Lei Municipal n.º. 14.771/2015.... Op Cit. Art. 34.**

18 BRASIL, **Plano Diretor de Curitiba. Lei Municipal n.º. 14.771/2015.... Op Cit. Art. 78, IV.**

19 BRASIL, **Plano Diretor de Curitiba. Lei Municipal n.º. 14.771/2015.... Op Cit. Art. 79.**

services.” In addition, there will be no such stay when there is a “proven risk situation for families, **as well as for irreversible environmental and urban issues**²⁰. “ Besides, there is a provision that the municipality will “promote measures for prevention, mediation and resolution of collective land conflicts “and return to work to establish the lowest possible cost, including seeking the possibility of total gratuity of the process²¹”.

ii) Working together with the Master Plan, there are several municipal legislations that deal with the subject studied to be summed up in a synthesized way:

a) Municipal Law No. 7833/1991 which deals with the policy of protection, conservation and recovery of the environment, area or Special Sections of Vale Funds and “determines the dimensions of non-buildable drainage bands according to the contributing area of the basin hydrographic²²”; b) Municipal Law No. 9460/1998 deals with the regularization of land subdivisions for urban projects, which was implanted illegally in the city in the time period until the date of December 31, 1993²³ ; c) Municipal Law No. 9800/2000 deals with the zoning, use and occupation of the land, including the zoning law the Special Sector of Housing of Social Interest - SEHIS. This includes areas where there is a public interest in ordering occupation (urbanization or land regularization), implementing or complementing housing programs of social interest²⁴ ; d) Law No. 9802/2000, which establishes incentives for the implementation of Housing Programs of Social Interest²⁵ ; e) Law No. 9803/2000 authorizing the municipal public authority to grant the transfer of constructive potential as a form of indemnification in the expropriation of areas destined to housing programs of social interest²⁶ ; f)

20 BRASIL, **Plano Diretor de Curitiba. Lei Municipal n.º 14.771/2015.... Op Cit. Art. 89.**

21 BRASIL, **Plano Diretor de Curitiba. Lei Municipal n.º 14.771/2015.... Op Cit. Art. 89.**

22 BRASIL, **Lei Municipal de Curitiba n.º 7833/1991.** Available at: <<http://legisladoexterno.curitiba.pr.gov.br/AtosConsultaExternaDownload.aspx?Id=25486&tipo=ass>>. Accessed on December 27, 2017.

23 BRASIL, **Lei Municipal de Curitiba n.º 9460/1998.** Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/lei-ordinaria/1998/946/9460/lei-ordinaria-n-9460-1998-dispoe-sobre-a-regularizacao-de-parcelamentos-do-solo-para-fins-urbanos-implantados-irregularmente-no-municipio-de-curitiba-ate-a-data-de-31-de-dezembro-de-1993-e-da-outras-providencias?q=9460>>. Accessed on December 27, 2017.

24 BRASIL, **Lei Municipal de Curitiba n.º 9800/2000.** Available at: <<https://leismunicipais.com.br/plano-de-zoneamento-uso-e-ocupacao-do-solo-curitiba-pr>>. Accessed on December 27, 2017.

25 BRASIL, **Lei Municipal de Curitiba n.º 9802/2000.** Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/lei-ordinaria/2000/981/9802/lei-ordinaria-n-9802-2000-institui-incentivos-para-a-implantacao-de-programas-habitacionais-de-interesse-social-e-revoga-a-lei-n-7841-91>>. Accessed on December 27, 2017.

26 BRASIL, **Lei Municipal de Curitiba n.º 9803/2000.** Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/lei-ordinaria/2000/981/9803/lei-ordinaria-n-9803-2000-autoriza-a-transferencia-de-potencial-construtivo>>. Accessed on December 27, 2017.

Law No. 9804/2000, which establishes the system of Conservation Units of the Municipality of Curitiba and establishes criteria and procedures for the implementation of new Conservation Units²⁷ ; g) Law No. 9805/2000 establishing the Special Sector of the Ring of Environmental Sanitary Conservation²⁸ ; h) Law No. 9806/2000 establishing the Forest Code of the Municipality of Curitiba²⁹ ; i) Decree No. 196/2000, which regulates Law No. 9.802/2000, established incentives for the Implantation of Housing Programs of Interest³⁰ ; j) Decree no. 250/2000 deals with the creation of new Special Sections of Housing of Social Interest (SEHIS), these sectors being areas for the implantation, by COHAB-CT, of new housing units of social interest, be they lots, single-family dwellings, tenements or more of these modalities located in all zoning except: industrial areas, service areas, and protected areas³¹. k) Decree No. 1164/2007, which establishes the Commission for Analysis and Approval of Social Interest Allotments - CAALIS, a body whose purpose is to analyze, deliberate and approve projects for the regularization of land parceling and land subdivisions of social interest³² ; l) Decree No. 1442/2005, which deals with the criteria for land regularization in areas belonging to the administration (direct and indirect)³³.

com.br/a/pr/c/curitiba/lei-ordinaria/2000/980/9803/lei-ordinaria-n-9803-2000-dispoe-sobre-a-transferencia-de-potencial-construtivo>. Accessed on December 27, 2017.

27 BRASIL, **Lei Municipal de Curitiba n° 9804/2000**. Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/lei-ordinaria/2000/980/9804/lei-ordinaria-n-9804-2000-cria-o-sistema-de-unidades-de-conservacao-do-municipio-de-curitiba-e-estabelece-criterios-e-procedimentos-para-implantacao-de-novas-unidades-de-conservacao>>. Accessed on December 27, 2017.

28 BRASIL, **Lei Municipal de Curitiba n° 9805/2000**. Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/lei-ordinaria/2000/980/9805/lei-ordinaria-n-9805-2000-cria-o-setor-especial-do-anel-de-conservacao-sanitario-ambiental-e-da-outras-providencias>>. Accessed on December 27, 2017.

29 BRASIL, **Lei Municipal de Curitiba n° 9806/2000**. Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/lei-ordinaria/2000/980/9806/lei-ordinaria-n-9806-2000-institui-o-codigo-florestal-do-municipio-de-curitiba-revoga-as-leis-n-8353-93-e-8436-94-e-da-outras-providencias>>. Accessed on December 27, 2017.

30 BRASIL, **Decreto Municipal de Curitiba n° 196/2000**. Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/decreto/2000/19/196/decreto-n-196-2000-regulamenta-a-lei-n-9802-00-que-instituiu-incentivos-para-implantacao-de-programas-habitacionais-de-interesse-social-e-da-outras-providencias>>. Accessed on December 27, 2017.

31 BRASIL, **Decreto Municipal de Curitiba n° 250/2000**. Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/decreto/2000/25/250/decreto-n-250-2000-dispoe-sobre-a-criacao-de-novos-setores-especiais-de-habitacao-de-interesse-social>>. Accessed on December 27, 2017.

32 BRASIL, **Decreto Municipal de Curitiba n° 1164/2007**. Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/decreto/2007/116/1164/decreto-n-1164-2007-institui-a-comissao-de-analise-e-aprovacao-de-loteamentos-de-interesse-social-caalis>>. Accessed on December 27, 2017.

33 BRASIL, **Decreto Municipal de Curitiba n° 1442/2005**. Available at: <<https://leismunicipais.com.br/a/pr/c/curitiba/decreto/2005/145/1442/decreto-n-1442-2005-dispoe-sobre-os-criterios-para-regularizacao-fundiaria-em-areas-pertinentes-a-administracao-direta-e-indireta-do-municipio-de-curitiba-ocupadas-por-populacao-de-baixa-renda-e-da-outras-providencias>>. Accessed on December

iii) Current programs related to housing and environmental policies related to the following themes: a) Environmental: Garbage Purchase Program is intended for areas with serious environmental problems due to the lack and/or impossibility of regular collection of garbage, such deficiency occurs because they are in non-urbanized areas or of difficult access to collecting trucks, such as hillsides, valley bottoms and irregular settlement areas with narrow streets. The objective of the program is to be an alternative form of household collection and is destined to the less favored population³⁴; Environmental Education Program seeks to sensitize citizens about environmental issues, included in schools and in various city parks³⁵.

b) Housing Programs of Social Interest are developed by COHAB-CT: Urbanized Lots Program and Financing for construction material: production of units for families with incomes of up to three minimum wages. In theory, the lots are delivered with basic infrastructure (reheated streets, drainage networks, water, sewage and electric power), and locations according to city planning³⁶;

Land Regularization Program: aimed at lower income families through regularization or resettlement in cases of impossibility of staying in the dwelling place. In the end, the definitive title is the main objective. According to the survey conducted by the prefecture of the 80s to 2006, 6.222 families were attended³⁷.

Residential Lease Program (PAR) is carried out in partnership with Caixa Econômica Federal, and is intended to replace the financed purchase of units through the lease procedure, with a term of 15 years. The figures show that from 2001 to 2007, 3.194 units were produced³⁸.

Private Initiative Partnership Program emerged in the early 1990s, as an alternative to the lack of resources of the Housing Finance System

27, 2017.

34 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente**. Curitiba 2007. P.151. Available at: <http://www.ippuc.org.br/visualizar.php?doc=http://admsite2013.ippuc.org.br/arquivos/documentos/D312/D312_006_BR.pdf>. Accessed on December 28, 2017.

35 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op Cit**. P.154.

36 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op Cit**. P.155.

37 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op Cit**. P.156.

38 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op Cit**. P.156.

(SFH). The private partner assumes all the costs and undertakes to transfer part of the lots produced to the Housing Municipal Fund that are offered by COHAB-CT to the population of up to 3 minimum wages, the rest can be sold directly by the entrepreneur to families with a higher income to 3 minimum wages³⁹.

Simplified Permit for Popular Housing consists of the elaboration of projects, by COHAB technicians, of single-storey houses with up to 70 m² and the issuance of a permit authorizing the construction. The restrictions are: the family has income of up to 5 minimum wages, has a single property and there is no other building in the lot⁴⁰.

Municipal Housing Fund (FMH) was established in 1990 and thus, before the City Statute, and aims to provide own funds for the financing of housing programs⁴¹.

The MORO AQUI (I LIVE HERE) Government Program works on three fronts, the first is urbanization through infrastructure works in areas without sanitation and precarious services (provided there are no technical or legal restrictions). The second is land regularization and titling of families and the third is the reallocation of risk area families that aims to transfer to regular parcels of families living in: “Risky situation, unhealthy conditions, permanent preservation areas, environmental protection, highway domain, railways, and high voltage lines.”⁴² The following projects are already underway: Bolsão Audi/União with urbanization actions, Pinhão housing with resettlement actions, Terra Santa with regularization and resettlement actions, Vila Pantanal and Vila Bela Vista de Passaúna with urbanization actions and Vila Savana e Lorena with urbanization and permanent settlement actions.⁴³

The criteria of the Municipal Plan on Land Regularization in Areas of Permanent Preservation for analysis of irregular settlements in Curitiba: the insertion in the surroundings; the topography of the sector; the degree of consolidation; the situation of risk and still the insalubrity; accessibility;

39 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op. Cit. P.157.**

40 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op. Cit. P.158.**

41 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op. Cit. P.158.**

42 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op. Cit. P.159 e 160.**

43 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op. Cit. P.159 e 160.**

infrastructure; the owning situation; the phase of land regularization and the necessary reallocations.⁴⁴

As demonstrated both constitutional and infraconstitutional legislation is full of great intentions and it values as a primary factor the integration between the different rights that are related to housing, promoting the necessary relationship with urban planning and the environment. The question that remains is what is the real situation of the relationship between the irregular settlements and the environment.

3. IRREGULAR SETTLEMENTS IN CURITIBA AND THE DEGRADATION OF THE ENVIRONMENT: REALITY

First you can see the table⁴⁵ representing the absolute numbers of irregular settlements:

Table 2 - Irregular Occupations by category in the Municipality of Curitiba in the year 2005.

| Category | Number of areas | Number of households |
|--|-----------------|----------------------|
| Spontaneous settlements in regularization | 53 | 17.352 |
| Spontaneous settlements without regularization | 205 | 38.048 |
| Clandestine allotment in regularization | 10 | 2.101 |
| Clandestine allotment without regularization | 73 | 4.765 |
| TOTAL | 341 | 62.267 |

Regarding the environmental risk, it is pointed out that this represents the proportion of households in inadequate sanitation conditions. Thus, 32% of the metropolitan areas were classified as medium-high to very high risk, and thus, of the 36 areas under these conditions, 6 are in Curitiba, in

44 INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária Em Áreas De Preservação Permanente.... Op. Cit. P.184.**

45 Tabela simplificada com case na tabela disponível em: INSTITUTO DE PESQUISA E PLANEJAMENTO URBANO DE CURITIBA. **Plano Municipal De Regularização Fundiária.... Op. Cit. Anexo I. p.5.**

the respective districts: Augusta, Riviera, Orleans, Butiatuvinha, Lamenha Pequena, Tatuquara, Moradias de Ordem, Cajuru 2, Campo de Santana, Caximba, Umbará, Ganchinho and Uberaba.

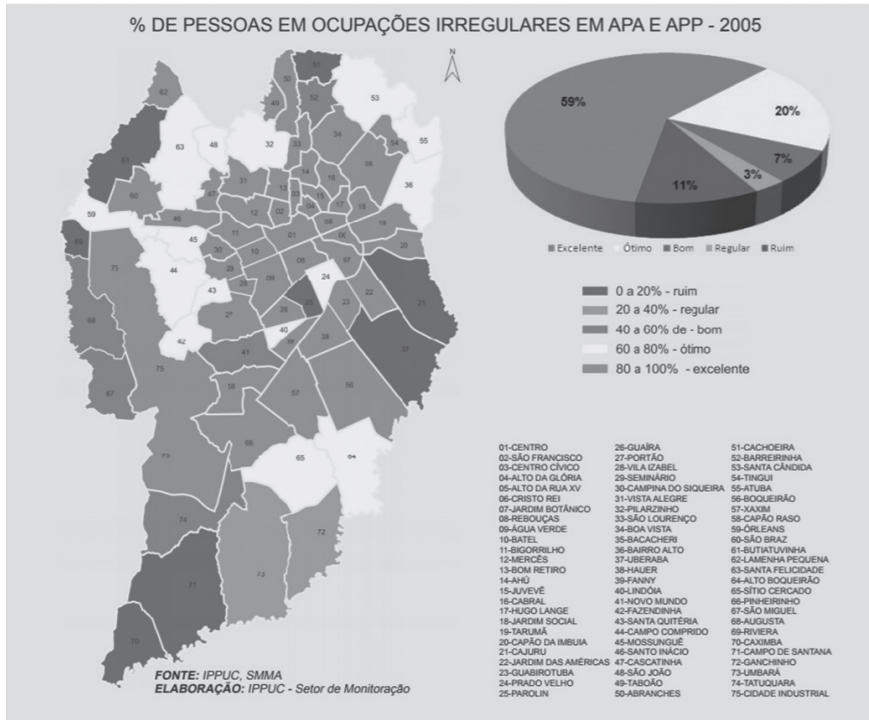
An essential factor to be observed is that there is a socio-spatial and environmental segregation, that is, “the central areas of the municipality are the ones that meet the conditions of lower environmental risk and the situation becomes more critical as areas move away from that point⁴⁶.”

In specific to the irregular settlements in areas of environmental preservation and permanent preservation areas are presented in figure 2. In absolute numbers the data of irregular settlements in areas of environmental and permanent preservation represent: 293 occupations, being 251 in APP and 42 in APA, of an updated total in 2006 of 397. In the number of households occupations in APP represent a total of 13.136 households, no specific data were found for APA⁴⁷.

46 OBSERVATÓRIO DAS METRÓPOLES. **Identificação dos espaços metropolitanos e construção de tipologias: relatório de atividade 1**. [S.l.]: IPARDES, 2004. Projeto Análise das Regiões Metropolitanas do Brasil. Contrato Ministério das Cidades, FASE. Trabalho realizado por IPARDES, IPPUR, FASE. Available at: <http://www.observatoriodasmetrolopes.ufrj.br/produtos/produto_mc_1.pdf>. Accessed on December 20, 2017.

47 BRASIL, Prefeitura Municipal de Curitiba. **Plano Municipal de Habitação e Habitação de Interesse Social**. 2008, p.77 a 84. Available at: <<http://www.ippuc.org.br/mostrarpagina.php?pagina=312>> Accessed on December 28, 2017.

Figure 2 - Percentage of people in irregular occupations in APA and APP in the year 2005



SOURCE: Master Plan of Curitiba. Environmental Control and Sustainable Development⁴⁸.

The question that is sought is what is effectively behind the legislation, how the population lives and what are the main problems that the city of Curitiba faces in relation to irregular settlements and the preservation of the environment.

In this way, the problems faced today on the theme used can be summarized in: i) Batch price; ii) Procedure; iii) Transparency; iv) Inspection.

i) Concerning the prices of lots, the “Partnership with private initiative” program, which, according to COHAB-CT itself, emerged as an alternative to the lack of resources: “The entrepreneur assumes the

⁴⁸ BRASIL, Plano Diretor de Curitiba. Lei Municipal n°. 14.771/2015.... Op. Cit. Controle Ambiental e Desenvolvimento Sustentável. Análise de Desempenho 1970 a 2009. P.55

investment and undertakes to transfer 20% of the lots produced to the Municipal Housing Fund “, the other 80% would be sold directly by the company⁴⁹.

However, it should be noted that the program was regulated by Municipal Law No. 8.412/1994 that defined as popular lot the lands that had from 180 m² to 360 m²⁵⁰, Meanwhile, the average area of the lots of private partnerships reached 160 m² in the Rio Bonito Houses, 140 m³ in the Riacho Doce Houses and 136 m² in the Jardim Habitar III⁵¹. In addition, it is not the public authority that hired the private company, but the COHAB-CT that is contracted by the companies for the provision of technical advisory services⁵².

The values of popular-private lots that are destined for sale by COHAB-CT (20% of private production) in 2009 were of R\$ 8500,00 to R\$ 10.000,00 and the provision generally remained at 180 months, reaching R\$ 110,00/month, destinedfor, since 2002, to families with income up to 3 minimum wages⁵³. The values of the 80% that are exclusivity of the private partners were sold for the values of R\$ 16.000,00 to R\$ 25.000,00, also financed over 180 months with monthly fees exceeding R\$ 200,00⁵⁴ That is, in the end with the update and interest, the lots reached the final value of R\$ 28.800,00 (Jardim Habitar III) to R\$ 45.144,00 (Rio Bonito Houses)⁵⁵.

Furthermore, COHAB’s own president states that there may be a change in values due to the cost price of the lot itself, and “since COHAB is a company, it can not be prejudiced “, which increases the price of lots as in the case of Bolsão Formosa that is sold to R\$ 390,00 per square meter “to balance finances.”⁵⁶

49 COMPANHIA DE HABITAÇÃO POPULAR DE CURITIBA- COHAB-CT. **Relatório de gestão 2002/2004**. Curitiba: COHAB/CT, 2004, p.14-15.

50 BRASIL, **Lei Municipal de Curitiba nº 8.412/1994**. Art.2º

51 ALBUQUERQUE, Aline Figueiredo. **A questão habitacional em Curitiba: o enigma da “cidade-modelo”**. Dissertação de mestrado. Faculdade de Arquitetura e Urbanismo da Universidade de São Paulo, 2007, p.86.

52 ALBUQUERQUE, Aline Figueiredo. **A questão habitacional em Curitiba... Op. Cit.** p.86.

53 COMPANHIA DE HABITAÇÃO POPULAR DE CURITIBA- COHAB-CT. **Relatório de gestão 2002/2004**. Curitiba: COHAB/CT, 2004, p.14.

54 ALBUQUERQUE, Aline Figueiredo. **A questão habitacional em Curitiba... Op. Cit.**p.87.

55 To the first a 1%/month interest rate was applied, corrected by the INPC. For an analysis of all payment methods and their interest rates, see: ALBUQUERQUE, Aline Figueiredo. **A questão habitacional em Curitiba... Op. Cit.** p.89.

56 JORNAL GAZETA DO POVO, **Quanto custa a regularização fundiária em Curitiba?** 28.09.2016. Available at: < <http://www.gazetadopovo.com.br/vida-e-cidadania/futuro-das-cidades/quanto-custa-a-regularizacao-fundiaria-em-curitiba-0d0d6y2ijg48zljwfvlyhghg> >. Accessed on No-

In addition, the vice-president of the Canãa Residents' Association, which compose Formosa, Indianara de Barros, informs that many residents can not enter the lot financing, as the installments would reach values of R\$ 500⁵⁷, in installments of 20 and a few years, families should prove monthly income over R\$ 2 thousand and many families can not⁵⁸.

ii) Regarding the procedures adopted, the COHAB chairman, Ubiraci Rodrigues, explained the procedure and the fees of the process, according to him there are two variables in the collection of values, the first would be the rates and fees of the process itself, which included administrative work of the very COHAB (surveying of land and streets, the application of questionnaires to residents, etc.), that would cost in 2006 the amount of R\$ 1.500 per inhabitant, with the option to be parceled up to 10 times. In addition, even in this first stage, the cost of the ownership documents would be from R\$ 300 to R\$ 400. It is also worth noting that there is an exemption from IPTU and because it is a social housing, there are exemptions from the Tax on the Transmission of Movable Goods (ITBI) and the real estate registration office.

The second variable concerns the effective value of the collection of the land, according to the president, COHAB always gets lots through donation or exchange and also points out that in many cases the town hall exchanges the area for the forgiveness of debts of the owners, thus giving the property to Cohab, who then tries to pass on to residents at a cost of \$ 150 per m². It emphasizes that there is the exception of the residents who paid in full for the Terms of Use and Concession of the Ground that would be exempt of that part. However, he further states that this value may vary due to the very lot cost, which may be higher, as in the case of Bolsão Formosa that is sold to R\$ 390,00 per square meter “to balance finances.”⁵⁹

At the same time, there are several criticisms about the institution's disinterestedness to carry out land regularization and when it is carried out the institution's activity is restricted to “proposing the purchase and sale of the occupied lands between the residents and the owners”⁶⁰

vember 10, 2017.

57 Figures for the year 2016.

58 JORNAL GAZETA DO POVO, **Quanto custa a regularização fundiária em Curitiba?... Op. Cit.**

59 JORNAL GAZETA DO POVO, **Quanto custa a regularização fundiária em Curitiba?... Op. Cit.**

60 MEIRINHO, Bruno Cesar Dechamps; ROCHA, Líbina da Silva; AULER, Mariana Marques. **Regularização fundiária: política pública ou negócio? Como Curitiba propõe a regularização de assentamentos autoconstruídos.** O mito do planejamento urbano democrático: reflexões a partir de

with overvaluations of the land and thus making effective negotiation impossible. Charging in this way and with these values means that several residents do not stay in the place⁶¹.

One of the most important criticisms is that today the waiting list of housing programs of COHAB has more than 80.000 subscribers. Currently half of the production of housing units is destined for resettlement, that is, to serve families that have been removed⁶², as previously reported, there is still a great percentage of families without adequate local families percentages and also those in areas of permanent environmental preservation, a factor that is not being counted as a priority in the COHAB resettlements.

In addition, it should be noted that in 2002 the Public Prosecutor's Office of Paraná filed a Public Civil Action that denounced the fraudulent nature of contracts executed by COHAB through terms of concession and use with residents. The procedure of said institution was to assign the use of land through "Land Use Concession Terms".

However, as stated by the Public Prosecutor's Office and confirmed in a first-degree judgment and second-degree judgment, these contracts were made under property that does not belong to COHAB, including the institution itself informed in the records that the lots belong to Companhia de Desenvolvimento de Curitiba - CIC. In this way, it was verified the vice in all the contracts signed by the COHAB since 1994 and thus, they were all invalidated⁶³. It should be noted that in total 37.751. buildings were entered in the file, and from that number, 6.539 have not yet been settled, and also may have the values of plots renegotiated⁶⁴.

iii) The question of transparency is very evident in the complaints and popular stories. First of all, regarding the procedure carried out by COHAB, which was chaired by the president of the institution in point "ii", the promoter Aline Balek Bahr, from the Curitiba Housing and Urban Planning Office, stated that a good part of these conflicts between residents

Curitiba. Mobiliza Curitiba. Organização de Luana Xavier Pinto Coelho. — Curitiba: Terra de Direitos, 2015, p.103.

61 MEIRINHO, Bruno Cesar Dechamps; ROCHA, Líbina da Silva; AULER, Mariana Marques. **Regularização fundiária: política pública ou negócio?... Op. Cit.**p.103 – 106.

62 MOBILIZA CURITIBA, **Política Pública de moradia Popular**. O mito do planejamento urbano democrático: reflexões a partir de Curitiba. Mobiliza Curitiba. Organização de Luana Xavier Pinto Coelho. — Curitiba: Terra de Direitos, 2015, p.81

63 BRASIL, Tribunal de Justiça do Paraná. **Apelação em Ação Civil Pública nº 0386783-8**. Ação civil pública nº 38910/2002. Relator Desembargadora Rosene Arão de Cristo Pereira.

64 TERRA DE DIREITOS, **Contratos falsos da COHAB-CT**. 02/03/2013. Available at: < <http://terradedireitos.org.br/casos-emblematicos/contratos-falsos-da-cohabct/11570>>. Accessed 30 dec. 2017.

and COHAB could be solved or at least minimized if there were more transparency in the process, including that this could be a factor that would bring more safety to the residents⁶⁵.

The creation of CONCITIBA, a city council of Curitiba, a council formed by several entities and municipal councils with the objective of integrating urban policy actions, brings hope of opening the dialogue. However, when analyzing the guidelines discussed in this council, it is noted that 47% of it relates to questions of internal organization of the Council and only 27% deal with urban planning⁶⁶.

In this way the first criticism that is presented is about the very possibility of participation and follow-up of the decision-making process of the city. The Mobiliza Curitiba Movement (Mobilize Curitiba) reports that when the discussions on the revision of the Master Plan were inaugurated, there was no clarity on how many public hearings would be held, how each citizen could participate in making proposals, how the evaluations and judgments of those proposals would be made and what would be the role of the CONCITIBA in this whole process⁶⁷.

They also report that at a certain moment the situation of obscurity of transparency reached a level where it was necessary to demand that minimum conditions be fulfilled such as: public hearings in accessible places and times, the provision of information material before public hearings, the wide dissemination of these discussions, a virtual platform to enable the monitoring of proposals, and also the explanation of the proposed management and criteria for the evaluation of proposals that were presented⁶⁸.

Several criticisms are made as to the possibilities of participation of the population and linked to this the issue of information. The representative of the movement União por Moradia Popular (Union for Popular Housing), Giziane Rodrigues points out the lack of this basework, after all, “people wanted to discuss, but did not know how,” and so, in order to guarantee an effective discussion it is necessary that people know the utility and the

65 JORNAL GAZETA DO POVO, *Quanto custa a regularização fundiária em Curitiba?... Op. Cit.*

66 BRAGA, Andréa Luiza Currealinho. *Reflexões sobre o Conselho Municipal da Cidade de Curitiba: dilemas e desafios da participação e do planejamento urbano*. O mito do planejamento urbano democrático: reflexões a partir de Curitiba. Mobiliza Curitiba. Organização de Luana Xavier Pinto Coelho. — Curitiba: Terra de Direitos, 2015, p.47-49.

67 MOBILIZA CURITIBA, *Política Pública de moradia popular*. O mito do planejamento... Op. Cit.p.34.

68 MOBILIZA CURITIBA, *Política Pública de moradia popular*. O mito do planejamento... Op. Cit.p.34.

possibilities of legal institutes, such as the Master Plan⁶⁹.

There are even more critical positions such as the representative of the National Movement for Struggle for Housing, Hilma de Lourdes Santos, who points out that one of the perspectives observed when participating in the construction of the Master Plan was that popular and civil society participation would be “only a tool for legitimize what they want to do in action”⁷⁰. “

The representative of the National Movement of Population in Curitiba, Mauricio Pereira, denounced the importance that, if it were not for the participation of civil society itself such as the Mobiliza Curitiba movement, other movements would not even know the dates of meetings for the construction of the Municipal Master Plan⁷¹.

iv) The last point to be studied is supervision. In the first stage, the one that was previously presented mainly in item ii regarding the variable directed to the price of the lots, the Public Civil Action that demonstrated the irregularity of the COHAB processes, and the own procedures for purchase of lots and regularizations. The promoter Aline Balek Bahr argues that for the actual implementation of the COHAB proposals there is a need for social control bodies that would oversee the entire purchase and regularization process, including the company’s waiting list, priorities for each segment (bands 1, 2 and 3 of FGTS) and also the situation of settlement areas⁷². In this way, it would prevent the greater consequence that was demonstrated in this study: the invalidation of thousands of contracts for presenting defects, as in the case of the terms of use used by COHAB in lands that were not of its property. In the same sense, an instance of control is necessary for the supervision of expansions, especially when it comes to areas of environmental and permanent preservation.

This point is directly reflected in the data previously presented in section 3, since despite the turbulent efforts made by Curitiba prefecture to carry out resettlement, land regularization and payment facilitation mechanisms, they were still not enough to block the growth of irregular

69 RODRIGES, Giziane. **Depoimentos**. O mito do planejamento urbano democrático: reflexões a partir de Curitiba. Mobiliza Curitiba. Organização de Luana Xavier Pinto Coelho. — Curitiba: Terra de Direitos, 2015, p.130.

70 SANTOS, Hilma de Lourdes Santos. **Depoimentos**. O mito do planejamento urbano democrático: reflexões a partir de Curitiba. Mobiliza Curitiba. Organização de Luana Xavier Pinto Coelho. — Curitiba: Terra de Direitos, 2015, p.130.

71 PEREIRA, Mauricio. **Depoimentos**. O mito do planejamento urbano democrático: reflexões a partir de Curitiba. Mobiliza Curitiba. Organização de Luana Xavier Pinto Coelho. — Curitiba: Terra de Direitos, 2015, p.131.

72 JORNAL GAZETA DO POVO, **Quanto custa a regularização fundiária em Curitiba?...** Op. Cit.

settlements and also, the growth of these in areas of environmental and permanent preservation is worrying. After all, 13% of Curitiba's neighborhoods are in poor or regular situations regarding irregular occupations in APA or APP, and the regional Cajuru is the one that is worse off: 30,51% of their households in APA and/or APP and 37,85% of their population in this condition⁷³.

The data show that housing policies and mainly protection of the directly affected environment are not proving sufficient, and yet, even in the face of statistics and maps prepared by agencies linked to the city hall itself denounce the growth of irregular occupations in areas of environmental preservation and permanent, few and sparse are the actions carried out with the objective of controlling the expansion of the growth of areas that are already in this situation and thus, to avoid such expansions allowing the inhabitants to build their dwelling in suitable areas.

4. JOINT WEARING FOR THE SOLUTION OF THE CONFLICT BETWEEN IRREGULAR SETTINGS AND PROTECTION TO THE ENVIRONMENT.

By going into the problems listed above, it is possible to draw some inspirations that would allow the resolution of these problems, always stressing the need for an integrated action between the Public Power and civil society, since they are part of the same link building sustainable and dignified cities to all⁷⁴.

What is observed is that only legislation such as the City Statute itself does not solve or eliminate the problems and conflicts that the population actually experiences, but they have the obligation to take them out of the shadows, "showing that society is unequally constituted"⁷⁵. Thus, it is not for this study to trace magical or technical solutions for the complete solution of the demands of the residents as well as full protection of the environment, there is a balance between these factors has been discussed in academic and lacks multidisciplinary solutions:

73 BRASIL, *Plano Diretor de Curitiba. Lei Municipal nº. 14.771/2015. Controle Ambiental e Desenvolvimento Sustentável. Análise de Desempenho 1970 a 2009. P.55* Available at: < http://www.ippuc.org.br/visualizar.php?doc=http://admsite2013.ippuc.org.br/arquivos/documentos/D310/D310_001_BR.pdf > Accessed: 20 de dezembro de 2017.

74 SANCHES, Jussara Romero Sanches; ARAUJO JUNIOR, Miguel Etinger de. Multidimensionalidade do direito à cidade no estatuto da cidade. *Revista de Direito Urbanístico, Cidade e Alteridade*. e-ISSN: 2525-989X. Brasília, v. 3, n. 1, Jan/Jun. 2017, p.4.

75 RODRIGUES, Arlete Moysés. *Estatuto da Cidade: função social da cidade e da propriedade. Alguns aspectos sobre população urbana e espaço*. Cadernos Metrópole, n. 12, 2º sem., 2004, p. 12.

integration of various areas for real development, covering all interests and technical possibilities. It is not up to the law to interfere or to express opinions on technical solutions, but rather legal ones, such as revision of legislation and expansion of supervisory mechanisms. The function of law is denunciation and regulation, which in most cases can only be carried out with the integration of technical studies.

Therefore, the first factor to be considered as a priority is intense inspection. As demonstrated earlier this is a point that directly affects various aspects of irregular settlements and their interference in the environment. Real monitoring of contracts and procedures would make it possible to avoid several of the consequences listed above, such as the charging of exorbitant prices, the use of inappropriate terms of use, which later resulted in the cancellation of thousands of contracts, as well as increasing the reliability of population affected in the process.

It is indeed important to think of irregular settlements and the procedures for regularization as a public policy, and as such, needs its improvement and inspection, it is not possible to see these situations as a “business “of COHAB or the Public Power⁷⁶. Only through a thought of progressivity and effectiveness of these rights as objectives and realities of the city will it be possible to ensure all the rights involved and decent housing together with the protection of the environment.

In addition, it is up to this study to emphasize that the fiscalization is the essential factor for the evaluation and the containment of expansions that reach areas of environmental and permanent preservation. The inspection operation on environmental issues is essential because it is a “race against time”, it is necessary to blacklist the expansions in this area and prioritize the technical studies of the possibility of resettlement taking into account the socialization and integration with the city itself. Several authors have highlighted the inefficiency of supervisory bodies, mainly due to lack of institutional support available and also few enforcement agents, factors that directly contribute to delays and flaws in evidence of improper use of the APP⁷⁷.

Thus, the performance of the public power as a fiscalizing agent in

76 MEIRINHO, Bruno Cesar Dechamps; ROCHA, Líbina da Silva; AULER, Mariana Marques. **Regularização fundiária: política pública ou negócio?...** Op. Cit.p.104.

77 BASSO, V. M. et al. Avaliação da influência da certificação florestal no cumprimento da legislação ambiental em plantações florestais. **Revista Árvore**, Viçosa-MG, v.35, n.4, p.835-844, jul./ago. 2011; e RODRIGUES, E. R. CULLEN JR., L.; BELTRAME, T. P.; MOSCOGLIATO, A. V.; SILVA, I. C. Avaliação econômica de sistemas agroflorestais implantados para recuperação de reserva legal no Pontal do Paranapanema, São Paulo. **Revista Árvore**, v.31, n.5, p.941-948, Viçosa-MG, 2007.

environmental issues is essential, it is not acceptable to expect the awareness of society as a whole to act only at that moment, but it is possible to rely on it for the actual realization of this process⁷⁸, and especially it is necessary that the environment is effectively made a priority, and a key element in the thinking of a housing public policy.

In addition, it is necessary to work with NGOs such as the Center for Studies, Defense and Environmental Education, Mater Natura - Institute for Environmental Studies, Society for Wildlife Research and Environmental Education (SPVS); Movements such as the Movements Mobiliza Curitiba, União por Moradia Popular, National Movement for Luta pela Moradia; and Residents' Association. Such action is necessary mainly as a mechanism for denouncing irregularities and obscurities, such as civil society acting as a fiscalizer of the actions of the Public Power. Thus, the first point to be considered is the supervision through the public power itself and the second point is the inspection through society, which consequently will be directly linked to the second point that refers to the dialogue.

As noted, the current mechanisms for participation mainly focused on public hearings directed toward the discussion of specific legislation, and so, in a seasonal way, do not allow the effective participation and visibility of the questions and so, as stated above, social movements and civil society is often invisible.

The real dialogue between society and the state allows for the reality of irregular settlements to be actually seen, also the environmental needs are understood by the population and public officials. There is a need for planning agreed upon with society⁷⁹. The balance between housing problems and the environmental issue is also based on effective dialogue, exchange of experiences and detailed explanations of urban and environmental needs.

In this way, it is necessary for the Public Power to implement non-seasonal, but permanent, mechanisms for participation so that societies, ONGs (NGOs) and Social Movements can bring their demands to the fore and really put it into discussion and analysis. Thus, with the demands actually addressed, one can move towards mechanisms of real dialogue,

78 BENJAMIN, Antônio Herman. **Constitucionalização do ambiente e ecologização da Constituição Brasileira**. In: CANOTILHO, José Joaquim Gomes; LEITE, José Rubens Morato (Org.). *Direito constitucional ambiental brasileiro*. 5. ed. rev. São Paulo: Saraiva, 2012.

79 TONELLA, Celene. Políticas Urbanas no Brasil: marcos legais, sujeitos e instituições. **Revista Sociedade e Estado**. Volume 28 Número 1. Janeiro/Abril 2013. P.50.

where ideas can be put to the discussion with the objective of constructing an integrated, participative city that allows the experience of all, that is, through exchanges of experience, with cooperation to achieve common goals⁸⁰.

Effectively for the materialization of these objectives it is necessary to formulate, through laws and public policies, digital and face-to-face mechanisms (decentralized by the neighborhoods) and the implementation of periodic public hearings and search for integrated solutions, and thus, with deadlines for disclosure, with information material for the population and carried out in different regions. There is no way to think of an urban policy that does not cover social participation, and the strengthening of the role of the State as the driver of this process, acting directly in its favor and based on citizenship and democracy⁸¹. It is a public policy of participation in housing management that directly affects the environment.

In this way, it is an action of the society itself to solve the problems, a fact that is fully possible when it comes to housing precariousness. Again, it is necessary the dialogue with these institutions and the formation of true partnerships, the State can not act alone, it can and must recognize the actions carried out by society in order to improve and dignify the urban space. However, it is important to emphasize that the action with regard to environmental protection, and consequently to settlements in APA and APP must be carried out predominantly by the Public Power⁸², since at least, regarding irregular settlements, are issues that often do not please the public involved, because the solution often found is resettlement.

In addition to this fiscalization role, another essential role of the state is to inform and teach about environmental standards, as highlighted by Vladimir Passos de Freitas, only through the formation of a culture in this sense that there will be the involvement of the population and thus the common will to put them in effect⁸³. Judge Pepita Durski Tramontini

80 CUNHA, Luis Henrique; BRANQUINHO NUNES, Aldo Manoel. Proteção da natureza e conflitos ambientais em assentamentos rurais. **Desenvolvimento e Meio Ambiente**, n. 18, p. 27-38, jul./dez. 2008. Editora UFPR, p.37.

81 MENDONÇA, Francisco. Riscos, vulnerabilidade e abordagem socioambiental urbana: uma reflexão a partir da RMC e de Curitiba. **Desenvolvimento e Meio Ambiente**, n. 10, p. 139-148, jul./dez. 2004. Editora UFPR, p.148.

82 There have been cases in which the society itself denounced environmental erosion in preservation areas near settlements. On the subject see: CUNHA, Luis Henrique; BRANQUINHO NUNES, Aldo Manoel. Proteção da natureza e conflitos ambientais em assentamentos rurais. **Desenvolvimento e Meio Ambiente**, n. 18, p. 27-38, jul./dez. 2008. Editora UFPR, p.35.

83 FREITAS, Vladimir Passos de. **Matas ciliares**. In: FREITAS, Vladimir Passos de. (Org.) *Direito Ambiental em evolução*. Curitiba: Juruá, 2005, p.317

Mazini complements this relationship by pointing out that the Public Power can provide information in this aspect, and this initiative is essential, since we “only preserve and only appreciate what is known⁸⁴.”

To supervise, dialogue and teach on this subject is of extra importance for society to glimpse the environment as part of their lives and of preservation priority.

Finally, it is crucial to understand that environmental public policies are of the utmost urgency, environmental degradation should be avoided to the maximum while solutions need to be considered and especially applied when thinking about irregular settlement. Again, the balance between these two distinct interests lies in recognizing that in reality they are two convergent interests: the full development of the city.

Society has reached a complexity of interests and problems, mainly in face of environmental phenomena that generate catastrophes, like great floods and landslides. At that time the idea of environmental risk is at the same time connected with the science of nature and the sciences of society, and so they take a completely different approach⁸⁵. Urban hazards are a “combination of an “*àlea*” (random phenomena) and vulnerability⁸⁶. “For this reason, the population’s living conditions play an important role in the understanding and constitution of urban environmental problems, and it acts as a determining factor to make the formal and informal city evident⁸⁷, as highlighted earlier in that environmental degradation assumes greater proportions in peripheral and discriminated regions, presenting a greater danger to the informal city that forms in the periphery⁸⁸.

This development can only be achieved through the integration of these interests, decent housing only achieved this status when the preservation of the environment was also part of this process. This integration is directly related to sustainability, understood as the “recognition of biophysical limits placed, unavoidably, by the biosphere in the economic process⁸⁹”, that is, realize that ecology supports the economy, and thus, any

84 MAZINI, Pepita DurskiTramontini. **O direito à informação ambiental**. In: FREITAS, Vladimir Passos (Org.). *Direito ambiental em revolução* 1. Curitiba: Juruá, 2002, p14-15.

85 MENDONÇA, Francisco. *Riscos, vulnerabilidade e abordagem socioambiental urbana...* Op. Cit. p.141

86 DUBOIS-MAURY, J.; CHALINE, C. *Les risques urbains*. Paris: Armand Colin, 2002.

87 MENDONÇA, Francisco. *Riscos, vulnerabilidade e abordagem socioambiental urbana...* Op. Cit.p.141.

88 GRAZIA, G.; QUEIROZ, L. L. et al. *O desafio da sustentabilidade urbana*. Rio de Janeiro: FASE/IBASE, 2001. (*Série Cadernos Temáticos*, n. 5) p.91.

89 CAVALCANTI, Clóvis de Vasconcelos. **Desenvolvimento e natureza: estudos para a sociedade**

policy that aims to restrict economic inequality impacts should take into consideration and be in tune with nature.

Currently the housing policy and the environment are integrated only in occupational bans and in the Municipal Plan of land regularization in areas of permanent preservation, which is not proving sufficient to strengthen the connection that these two matters and realities have. That is, the current demands for housing at various points do not find the adequate response in a specific public policy, and the delimitation of its content encounters this difficulty, since it is not present in a current project⁹⁰. At the same time that they actually meet the demands of protecting the environment, in the plans the two requirements are not related as they should be. For the full and dignified development of the city, it is necessary that both the public housing policy and the protection of the environment be rethought so as to include in each of them the interconnection already seen in reality: the environment and society, the sustainable cities depends on this integration.

FINAL CONSIDERATIONS

In this study there were four moments of analysis: firstly, the international, constitutional and federal regulations on the themes surrounding irregular settlements and protection of the environment, demonstrating the multidisciplinary character of this study. In a second moment the Curitiba/PR Master Plan was analyzed, pointing the municipal plans were sparse and the programs currently in force when it comes to housing in precarious areas and the protection of the environment involved. In a third moment it moved away from the legislative theoretical plane and reached for diverse sources to demonstrate the real problems experienced by the inhabitants and how the occupations in areas of permanent and environmental preservation are advancing. In the fourth moment, it enters the inspirations that could help in the construction of solutions when faced with the controversy between the irregular settlements and the environmental protection.

Thus, thinking about the balance between the interests of

sustentável. 2. ed. São Paulo: Cortez, 1998, p.134.

90 VALLE, Vanice Lírio do. **Demandas derivadas e ampliação do núcleo essencial do direito à moradia: Deferência como critério judicial de solução.** In: José Ribas Vieira; Margarida Maria Lacombe Camargo; Rogério Barros Sganzerla. (Org.). *Direitos fundamentais e jurisdição constitucional.* 1 ed. Belo Horizonte: Editora Fórum, 2016, v. 1, p.191.

residents and the environment pierces the following topics: i) intense and real Supervision of contracts, procedures and containment expansions that reach areas of environmental and permanent preservation, which is both the Government civil society; ii) It is this exchange of ideas that allows us to reach the second point: dialogue, since it would allow an effective system of feedback of public policies in progress and would allow the expansion of actions in the sense that effectively affected and reached the demands of the population and still, would enable the environment to become a demand of the whole society; iii) Finally, it is necessary to think about housing policies together with environmental policies, so that in an integrated and progressive way, they work together towards the development of an effectively dignified society that guarantees environmental parameters.

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